



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/171030

PRELIMINARY RECITALS

Pursuant to a petition filed December 28, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Door County Department of Social Services in regard to Medical Assistance, a hearing was held on February 08, 2016, at Sturgeon Bay, Wisconsin.

The issue for determination is

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Door County Department of Social Services
Door County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235-0670

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Door County.
2. Petitioner had an ongoing BC+ case as a one-person household.
3. On January 6th, the agency received verification from the employer [REDACTED] dated 1/5/16 which indicated usual hours of 20-30 per week at a pay rate of \$8.50 per hour. The agency

also budgeted income from [REDACTED] at 947.12 per month. The agency determined that petitioner was not eligible for BC+ (see ex. #3).

4. Petitioner filed a timely appeal.
5. On or around 1/8/16, petitioner contacted the agency and informed the agency that the income the agency relied upon was not correct. The agency asked petitioner to submit her latest 30 days of pay stubs from her employers.
6. On or around 1/20/16, petitioner provided two paystubs from [REDACTED] for the period from December 13, 2015 to January 9, 2016, and two paystubs from [REDACTED] for the period from December 6, 2015 to January 2, 2016. The [REDACTED] stubs indicate a gross biweekly income of \$409.38 and \$246.91. The [REDACTED] stubs indicate a biweekly gross income (including reported tips) of \$531.42 and \$224.31.
7. Using the pay stubs, the agency determined that petitioner was still not eligible for BC+ (see ex. #3).

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1. The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. The income limit for adults went lower effective April 1, 2014: an eligible adult cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$980.83 monthly for a household of one. *Id.*, § 50.1.

The Department calculated monthly gross income for this household far exceeding \$980.83. From gross income the Department is allowed to subtract only those income tax deductions listed on lines #23 through #35 of the federal 1040 tax return, subject to modifications listed at 42 C.F.R. § 435.603(e). No applicable deductions were identified here.

I was unable to find any error with the agency's calculations and petitioner did not identify any. Her argument was that the data relied upon by the agency was not accurate. At hearing, petitioner argued that the pay stubs include some one-time payments that are not typical. If that is the case, then the petitioner should provide updated pay stubs to the agency in order to have the eligibility recalculated. On this record, the agency's calculations appear to be correct and they are not disputed by petitioner. The agency appears to have relied on the best and only data provided to it. The petitioner will have to provide new data to support the need or appropriateness of a change.

CONCLUSIONS OF LAW

The agency did not err in determining that petitioner is not eligible for BC+ based on the income data available to the agency.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

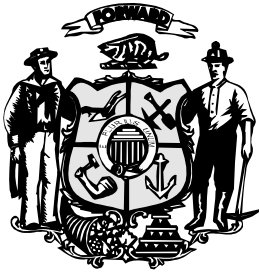
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 1st day of March, 2016

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 1, 2016.

Door County Department of Social Services
Division of Health Care Access and Accountability